

PATENT


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Date: 10-31-05
Himanshu S. Amin**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:

Applicant(s): Allan Herrod, *et al.*

Examiner: Congvan Tran

Serial No: 10/057,463

Art Unit: 2683

Filing Date: January 24, 2002

Title: **TERMINAL WITH OPTICAL READER FOR LOCATING PRODUCTS IN A RETAIL ESTABLISHMENT**

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APPEAL BRIEF

Dear Sir:

Applicant submits this brief in connection with an appeal of the above-identified patent application. A credit card payment form is filed concurrently herewith in connection with all fees due regarding this appeal brief. In the event any additional fees may be due and/or are not covered by the credit card, the Commissioner is authorized to charge such fees to Deposit

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I. Real Party in Interest (37 C.F.R. §41.37(c)(1)(i))

The real party in interest in the present appeal is Symbol Technologies, the assignee of the present application.

II. Related Appeals and Interferences (37 C.F.R. §41.37(c)(1)(ii))

Appellants, appellants' legal representative, and/or the assignee of the present application are not aware of any appeals or interferences which may be related to, will directly affect, or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims (37 C.F.R. §41.37(c)(1)(iii))

Claims 75-92, 95 and 96 stand rejected by the Examiner. Claims 93 and 94 stand withdrawn. The rejection of claims 75-92, 95 and 96 is being appealed.

IV. Status of Amendments (37 C.F.R. §41.37(c)(1)(iv))

No claim amendments have been entered after the Final Office Action.

V. Summary of Claimed Subject Matter (37 C.F.R. §41.37(c)(1)(v))**A. Independent Claim 75**

Independent claim 75 recites a product location information retrieval system in a retail establishment comprising a computer terminal with an optical reader arranged to receive a data input query from the customer utilizing the terminal and relating to one or more products located in a product access zone, a remote link that receives a wireless signal from an access point and transmits the wireless signal to the computer terminal, wherein the wireless signal is associated with information relating to the one or more products within the product access zone; and a display that presents an image of the one or more products to be accessed by the user, the image is based at least in part upon the wireless signal. (See e.g. page 21, line 8 – page 23 line 8).

B. Independent Claim 95

Independent claim 95 recites a methodology for locating a product in an enclosed environment, comprising providing a computer terminal to a user which is utilized within the

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enclosed environment, receiving a signal that provides information relating to specified products within a pre-defined radius of the user, and displaying an image of each of the specified products via the computer terminal. (*See e.g.* page 23, line 9 – page 24 line 18).

C. Independent Claim 96

Independent claim 96 recites A system that provides product information to a user, comprising means for sending a wireless signal to a computer terminal (*See e.g.* page 21, lines 21-29), means for receiving the wireless signal via computer terminal indicative of at least one product within a product access zone (*See e.g.* page 21 lines 30–page 22 line 11), means for associating at least one image with at least one product located within the product access zone (*See e.g.* page 25 lines 11–13), and means for displaying the at least one image on the computer terminal (*See e.g.* page 25 lines 13-16).

The aforementioned means for limitations are identified as claim elements subject to the provisions of 35 U.S.C. §112 ¶6. The corresponding structures are identified with reference to the specification and drawings in the parentheticals above corresponding to those claim limitations.

VI. Grounds of Rejection to be Reviewed (37 C.F.R. §41.37(c)(1)(vi))

A. Whether claims 75, 77, 78, 95 and 96 stand rejected under 35 U.S.C. §102(e) as being anticipated by Azar (US 5,778,177).

B. Whether claims 76, 80-87 and 92 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Azar in view of Durbin *et al.* (US 6,039,258).

C. Whether claims 79 and 88 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Azar in view of Yamamoto (US 5,991,276).

D. Whether claims 89 and 90 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Azar in view of Soltesz *et al.* (US 5,756,978).

E. Whether claim 91 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Azar in view of Copland *et al.* (US 5,717,430).

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VII. Argument (37 C.F.R. §41.37(c)(1)(vii))**A. Rejection of Claims 75, 77, 78, 95 and 96 Under 35 U.S.C. §102(e)**

Claims 75, 77, 78, 95 and 96 stand rejected under 35 U.S.C. §102(e) as being anticipated by Azar (5,778,177). Applicants' representative respectfully requests that this rejection be withdrawn for at least the following reasons. Azar fails to disclose all features of the subject claims.

A single prior art reference anticipates a patent claim only if it *expressly or inherently describes each and every limitation set forth in the patent claim*. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The *identical invention must be shown in as complete detail as is contained in the ... claim*. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

The claimed invention relates to a product location information retrieval system. In particular, independent claims 75, 95 and 96 recite similar aspects, namely a computer terminal...arranged to receive a data input query from a customer *relating to one or more products located in a product zone* and a remote link that receives a wireless signal from an access point and transmits the wireless signal to the computer terminal, *wherein the wireless signal is associated with information relating to the one or more products within the product access zone*. Azar fails to teach or suggest such claimed features.

More particularly, the claimed invention mitigates the need for storing information about all products located within a product access zone at the customer's computer terminal. This is achieved by allowing the customer to input a query about a desired product within a product access zone and to receive information related to that product from a central computer *via* a remote link to the computer terminal. Such novel aspect of the claimed invention facilitates reduction in overall size and processing/memory requirements of the computer terminal – an outcome that is not accomplished by Azar.

Azar discloses a scanning system that employs multi-dimensional scanners and allows a scanned image to be transferred amongst multiple computer terminals equipped with similar

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scanning systems. At page 2 of the Advisory Action, the Examiner incorrectly contends that Azar discloses a wireless signal associated with information relating to the one or more products within the product access zone, as in the claimed invention. At the portion of Azar cited by the Examiner, the reference discusses transferring a multi-dimensional image to multiple end user stations for further display and alteration. While Azar allows multiple users to make changes to an image simultaneously, there is no teaching or suggestion of producing images based on user input *relating to one or more products in a product access zone* as in the claimed invention. In fact, the convenient and lightweight computer terminal for product information retrieval afforded by the claimed invention is not even contemplated by Azar. Rather, the cited reference permits users to render an image based on personal preference without regard to a product access zone as in the claimed invention. Therefore, the reference is silent with respect to a wireless signal associated with information relating to the one or more products *within the product access zone*, as recited in the subject claims.

In view of at least the foregoing, it is readily apparent that Azar fails to disclose the identical invention in as complete detail as is contained in the subject claims. Accordingly, reversal of this rejection with respect to independent claims 75, 95 and 96 (and the claims that depend there from) is respectfully requested.

B. Rejection of Claims 76, 80-87 and 92 Under 35 U.S.C. §103(a)

Claims 76, 80-87 and 92 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Azar in view of Durbin *et al.* (US 6,039,258). This rejection should be withdrawn for at least the following reasons.

The subject claims depend from independent claim 75. As previously discussed with respect to this claim, Azar fails to disclose all claimed features of applicant's invention. Durbin *et al.* fails to make up for the deficiencies of Azar. Durbin *et al.* is directed towards a hand-held data collection system that optimizes scanning angles for efficient data collection. Nowhere does the reference disclose or suggest *a remote link that receives a wireless signal from an access point and transmits the wireless signal to a computer terminal, wherein the wireless signal is associated with information relating to one or more products within a product access zone.* Accordingly, this rejection should be reversed.

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C. Rejection of Claims 79 and 88 Under 35 U.S.C. §103(a)

Claims 79 and 88 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Azar in view of Yamamoto (US 5,991,276). It is respectfully requested that this rejection be withdrawn for at least the following reasons.

Claims 79 and 88 depend from independent claim 75, and as discussed *supra*, Azar fails to teach or suggest *a remote link that receives a wireless signal from an access point and transmits the wireless signal to a computer terminal, wherein the wireless signal is associated with information relating to one or more products within a product access zone*. Yamamoto does not make up for the shortcomings of Azar. Rather, Yamamoto relates to a multi-point videoconference system that integrates multiple audio/video signals from multiple videoconference terminals. The cited reference does not disclose sending a wireless signal with information relating to one or more products within a product access zone to a computer terminal, let alone a product location information retrieval system in a retail establishment, as claimed. Therefore, reversal of this rejection is requested.

D. Rejection of Claims 89 and 90 Under 35 U.S.C. §103(a)

Claims 89 and 90 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Azar in view of Soltesz *et al.* (US 5,756,978). This rejection should be over ruled for at least the following reasons.

The subject claims depend from independent claim 75. As noted *supra*, Azar does not disclose all inventive aspects recited in claim 75. Soltesz *et al.* fails to make up for the deficiencies of Azar. Instead, Soltesz *et al.* is directed towards an integrated optical card reader/transaction module that improves transactional security. Nowhere does the document disclose or suggest *a remote link that receives a wireless signal from an access point and transmits the wireless signal to a computer terminal, wherein the wireless signal is associated with information relating to one or more products within a product access zone*, as claimed. Accordingly, this rejection with respect to claims 89 and 90 should be reversed.

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E. Rejection of Claim 91 Under 35 U.S.C. §103(a)

Claim 91 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Azar in view of Copland *et al.* (5,717,430). Applicants' representative respectfully requests that this rejection be reversed for at least the following reasons.

Claim 91 depends from independent claim 75, and as discussed *supra*, Azar fails disclose all recited elements of claim 75. Copland *et al.* fails to compensate for the deficiencies of Azar. Copland *et al.* relates to integrating external multimedia computer hardware components into a computer keyboard. The reference is not directed towards a product location information retrieval establishment and is silent regarding the claimed features of *a remote link that receives a wireless signal from an access point and transmits the wireless signal to a computer terminal, wherein the wireless signal is associated with information relating to one or more products within a product access zone.* Therefore, this rejection should be reversed.

F. Conclusion

For at least the above reasons, the claims currently under consideration are believed to be patentable over the cited reference. Accordingly, it is respectfully requested that the rejections of claims 75-96 be reversed.

If any additional fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [SYMBP188US].

Respectfully submitted,
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VIII. Claims Appendix (37 C.F.R. §41.37(c)(1)(viii))

75. A product location information retrieval system in a retail establishment comprising:

a computer terminal with an optical reader arranged to receive a data input query from the customer utilizing the terminal and relating to one or more products located in a product access zone;

a remote link that receives a wireless signal from an access point and transmits the wireless signal to the computer terminal, wherein the wireless signal is associated with information relating to the one or more products within the product access zone; and

a display that presents an image of the one or more products to be accessed by the user, the image is based at least in part upon the wireless signal.

76. The system of claim 75, the optical reader is a bar code reader which generates the query by scanning a bar code symbol.

77. The system of claim 75, further comprising:

means for delivering display format information for the display associated with a terminal; and

means for configuring the data to be presented on the display according to the display format information.

78. The system of claim 77, the display format information includes the number of characters in a horizontal line in the display.

79. The system of claim 77, the means for configuring the data includes means for scaling the data to the size of the display.

80. The system of claim 77, the display is included in the housing of the terminal.

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81. The system of claim 75, the query is relayed to a server and the terminal receives responsive data from the server using wireless communications.

82. The system of claim 75, the product access zone corresponds to a region in the vicinity of the terminal in which the product is located.

83. The system of claim 75, the terminal includes a positioning system and the displayed image indicates the location of the product with respect to the current detected position of the terminal.

84. The system of claim 75, the terminal display provides a map of the product access zone.

85. The system of claim 75, the terminal is a mobile, hand-held terminal.

86. The system of claim 75, the display indicates the position of the terminal on a map.

87. The system of claim 75, the product access zone comprises a shelf location.

88. The system of claim 75, the terminal displays an image of the product on sale.

89. The system of claim 75, a user provides information identifying the user to the system via a magnetic card swipe slot.

90. The system of claim 85, the terminal displays product offers related to the user's personal buying patterns and/or preferences the selection of such offers being derived from a database associated with the user identification information.

91. The system of claim 86, the terminal further includes a speaker and a voice synthesizer for providing product or other information corresponding to the user's preference.

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92. The system of claim 81, the mobile terminal includes a range alarm activated if the terminal leaves the product access zone.

93. (Withdrawn) A methodology for locating a product in an enclosed environment, comprising:

providing a portable terminal to a user which is utilized within the enclosed environment;
receiving a signal that provides information relating to specified products within a pre-defined radius of the user; and
displaying an image of each of the specified products *via* the portable terminal.

94. (Withdrawn) A system that provides product information to a user, comprising:
means for sending a locating signal to a hand held terminal;
means for receiving a signal *via* hand held terminal indicative of at least one product within a product access zone;

means for associating at least one image with at least one product located within the product access zone; and
means for displaying the at least one image on the hand held terminal.

95. A methodology for locating a product in an enclosed environment, comprising:
providing a computer terminal to a user which is utilized within the enclosed environment;

receiving a signal that provides information relating to specified products within a pre-defined radius of the user; and

displaying an image of each of the specified products *via* the computer terminal.

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96. A system that provides product information to a user, comprising:
means for sending a wireless signal to a computer terminal;
means for receiving the wireless signal *via* computer terminal indicative of at least one product within a product access zone;
means for associating at least one image with at least one product located within the product access zone; and
means for displaying the at least one image on the computer terminal.

IX. Evidence Appendix (37 C.F.R. §41.37(c)(1)(ix))

None.

X. Related Proceedings Appendix (37 C.F.R. §41.37(c)(1)(x))

None.